

SENATE . . . . . No. 304.

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Commonwealth of Massachusetts.

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SENATE, May 24, 1894.

The committee on Expenditures, to whom was committed the Senate Bill (Senate, No. 108) relative to the construction and maintenance of State highways, report that the same ought to pass in a new draft herewith submitted.

For the Committee,

WILLIAM B. LAWRENCE.

## Commonwealth of Massachusetts.

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In the Year One Thousand Eight Hundred and Ninety-four.

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### AN ACT

Relating to State Highways.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Sections six, seven, eight, nine,  
2 eleven and thirteen of chapter four hundred and  
3 seventy-six of the acts of the year eighteen hun-  
4 dred and ninety-three are hereby repealed and  
5 the following substituted therefor:—

6 *Section 6.* Whenever the county commissioners  
7 of a county, or the mayor and aldermen of a city,  
8 or the selectmen of a town, adjudge that the pub-  
9 lic necessity and convenience require that the  
10 Commonwealth take charge of a new or an exist-  
11 ing road as a highway, in whole or in part, in that  
12 county, city or town, they may apply by a petition  
13 in writing to the Massachusetts highway com-  
14 mission, stating the road they recommend, together  
15 with a plan and profile of the same.

16 *Section 7.* Said highway commission shall  
17 consider such petition and determine what the

18 public necessity and convenience require in the  
19 premises, and, if they deem that the highway  
20 should be laid out or be taken charge of by  
21 the Commonwealth, shall file a plan thereof  
22 in the office of the county commissioners of  
23 the county in which the petitioners reside,  
24 with the petition therefor and a certificate that  
25 they have laid out and taken charge of said  
26 highway in accordance with said plan, and said  
27 highway shall, after the filing of said plan, be laid  
28 out as a highway and shall be constructed and  
29 kept in good repair and condition as a highway  
30 by said commission, and shall be known as a state  
31 road; and all openings and placing of structures  
32 in any such road shall be done in accordance with  
33 a permit from said commission.

34 *Section 8.* The damages sustained by any per-  
35 son whose property is taken for any such high-  
36 way shall be paid by the Commonwealth, the  
37 same to be determined by said commission, and if  
38 said commission and the person sustaining the  
39 damages cannot agree thereon he or they may  
40 have said damages determined by a jury in the  
41 county in which the land is situated by filing a  
42 petition for such jury in the office of the clerk of  
43 the superior court for said county at any time  
44 before the expiration of one year from the com-  
45 pletion of said highway, and thereupon said dam-  
46 ages shall be determined by a jury at the bar of  
47 said court in the same manner as damages for the  
48 taking of land for other highways in the county,  
49 city or town are determined; and costs shall be

50 taxed to the prevailing party on such petition as  
51 in civil cases.

52 *Section 9.* Said commission shall, when about  
53 to construct any highway, advertise in two or  
54 more papers published in the county where the  
55 road or portion of it is situated, and in three or  
56 more daily papers published in Boston, for bids  
57 for the construction of said highway under their  
58 supervision and subject to their approval, in  
59 accordance with plans and specifications to be  
60 furnished by said commission. Such advertise-  
61 ment shall state the time and place for opening  
62 the proposals in answer to said advertisements,  
63 and reserving the right to reject any and all pro-  
64 posals. All such proposals shall be sealed and  
65 shall be kept by the board, and shall be open to  
66 public inspection after said proposals have been  
67 accepted or rejected. Said commission may reject  
68 any or all bids, or if a bid is satisfactory they  
69 shall, with the approval of the governor and  
70 council, make a contract in writing on behalf of  
71 the Commonwealth for said construction, and  
72 shall require of the contractor a suitable bond for  
73 at least three thousand dollars for each mile of  
74 road, to indemnify any city or town in which such  
75 highway lies against damage while such road is  
76 being constructed ; and the Commonwealth shall  
77 not be liable for any damage occasioned thereby.  
78 But all contracts for said construction shall be  
79 fairly apportioned by said commission among the  
80 different counties, and not more than five miles of  
81 state road shall be constructed in any one county

82 on petition as aforesaid without the previous ap-  
83 proval thereof in writing by the governor and  
84 council.

85 *Section 11.* One half of any money expended  
86 under the provisions of this act in any county  
87 for a highway, with interest on said half at the  
88 rate of three per cent. per annum, shall be repaid  
89 by said county to the Commonwealth in such  
90 reasonable sums and at such times within six  
91 years thereafter as said commission, with the  
92 approval of the state auditor, shall determine,  
93 taking into consideration the financial condition  
94 of the county, and the treasurer and receiver-  
95 general shall apply all money so repaid to the  
96 appropriation to be expended by said commission.

97 *Section 13.* Any city or town in which a state  
98 highway is situated shall be liable for injuries to  
99 persons travelling upon a state highway the same  
100 as upon other highways, but one half of the  
101 amount actually recovered as damages for such  
102 injuries shall be repaid within one year thereafter  
103 to such city or town by the Commonwealth; and  
104 it shall be the duty of each city or town season-  
105 ably to notify said commission of any defect in  
106 or want of repair of a state highway.

1    SECT. 2. Said commission shall keep all state  
2 roads reasonably clear of brush, and shall cause  
3 suitable shade trees to be set out along said high-  
4 ways when feasible, and shall renew the same  
5 when necessary, and may also establish and main-

tain watering troughs at suitable places along said  
highways.

SECT. 3. To carry out the provisions of chapter four hundred and seventy-six of the acts of the year eighteen hundred and ninety-three, as hereby amended, said commission may expend not exceeding one hundred and fifty thousand dollars.

SECT. 4. This act shall take effect upon its passage.



